

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In RE:

James F. Belfiori,
Elizabeth E. Belfiori,

Debtors.

Case No.: 12-61015
Chapter 7

**NOTICE OF HEARING AND MOTION TO COMPEL TURNOVER
OF ESTATE PROPERTY AND AWARD OF ATTORNEY'S FEES**

TO: The United States Bankruptcy Court, the United States Trustee, the Debtor, the Debtor's attorney, and all parties who requested notice under Bankruptcy Rule 2002.

1. Gene W. Doeling, Attorney for Bankruptcy Trustee, moves the court for the relief requested below and gives notice of hearing.
2. The court will hold a hearing on this motion on January 29, 2014, at 9:00 a.m., US Bankruptcy Court, 204 U.S. Courthouse, 118 South Mill Street, Fergus Falls, Minnesota, or as soon thereafter as counsel can be heard.
3. Any response to this motion must be filed and served not later than January 24, 2014, which is five days before the time set for the hearing (including Saturdays, Sundays, and holidays). **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**
4. This court has jurisdiction over this motion pursuant to 28 U.S.C. §§157 and 1334. This motion arises under 11 U.S.C. § 542. This motion is filed under Fed. R. Bankr. P. 9014 and Local Rules 6072-1. This proceeding is a core proceeding.
5. The petition commencing this chapter 7 case was filed on December 11, 2012. The case is now pending in this court.
6. Movant requests the turnover of certain property ("Assets"). The trustee has been advised by a stock holder in the Pelican Rapids Supper Club, Inc., that the debtor, who also owned stock in the Supper Club, is in possession of various 2012 financial records and till tapes belonging to the supper club. The trustee has requested that the debtor provide certain financial information so that the 2012 tax return for the Pelican Rapids Supper Club, Inc., can be completed and in turn, the bankruptcy estate can complete its tax return, but despite requests from the trustee, the debtor has refused to turn this information over. The trustee requested that the debtor be ordered to turn over all

financial information for the Pelican Rapids Supper Club, Inc. for 2012, including all of the bank account statements, ledgers, financial statements and the till tapes from July 2, 2012- January 1, 2013.

7. Despite demand for surrender of the Assets, the Trustee has not received these items. The Trustee seeks an order requiring turnover of the Assets within 7 calendar days from the date of the turnover hearing.
8. The Assets are not the subject of any reported collateral interest in the petition and are not eligible nor are they characterized as exempt under Schedule C.
9. Pursuant to 11 U.S.C. §521(3)(4), the Debtor is required, among other things, to cooperate with the Trustee as necessary to enable the Trustee to perform the Trustee's duties, and to surrender to the Trustee all property of the estate and any recorded information including books, documents, records, and papers relating to property of the estate. Bankruptcy Rule 4002(4) also requires the Debtor to cooperate in the administration of the estate. The Debtors have not complied with their obligation in this matter. As a direct result of their failure to discharge their duties, the bankruptcy estate has incurred attorney's fees in bringing this turnover motion which would not otherwise have been incurred. Therefore, the Debtors should bear the financial burden of their failure to discharge their obligations, and the estate should be awarded \$300 in attorney's fees to be paid by the Debtors. Under 11 U.S.C. §105(a) the court may issue any order that is necessary or appropriate to carry out the provisions of Title 11.

Wherefore, Gene W. Doeling, by and through the undersigned attorney, moves the court for an order of the court:

1. Directing the turnover of the assets to the Trustee within 7 calendar days from the date of the hearing on the motion for turnover.
2. Requiring the Debtors to pay to the Trustee the sum of \$300 in payment of attorney's fees incurred by the Trustee in bringing this motion.
3. For such further relief as the court deems just and equitable.

Executed on January 8, 2014.

Signed: /e/ Gene W. Doeling
Gene W. Doeling
Attorney for Bankruptcy Trustee
PO Box 9231
Fargo, ND 58106

(701) 232-8757
Atty. ID No. 242329

Verification. I, Gene W. Doeling, the moving party named in the foregoing notice of hearing and motion, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on January 8, 2014.

Signed: /e/ Gene W. Doeling
Gene W. Doeling, Trustee
PO Box 9231
Fargo, ND 58106-9231
(701) 232-8757

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ORDER

Gene W. Doeling, the Trustee in this matter, filed a Motion to Compel the Turnover of Estate Property. The motion was set for hearing on January 29, 2014, at 9:00 a.m. The Court does, based upon the record arising from said motion, order that:

1. The Trustee's Motion to Compel the Turnover of Estate Property is sustained and that the Debtor is hereby ordered to deliver to the Movant the following specific property within 7 days from the date of the hearing on this motion: all financial information for the Pelican Rapids Supper Club, Inc. for 2012, including all of the bank account statements, ledgers, financial statements and the till tapes from July 2, 2012-January 1, 2013.
2. The Debtors will pay to the Trustee the sum of \$300 in payment of attorney's fees incurred by the Trustee in bringing this motion.
3. Such further relief as the court deems just and equitable.

Dated: _____

Judge Michael E. Ridgway
US Bankruptcy Court Judge

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UNSWORN CERTIFICATE OF SERVICE

I, Gene W. Doeling, declare under penalty of perjury that on January 8, 2014 the following entities were served electronically via CM/ECF

Paul S. Jensen, pjensen@firmanswer.com

Office of the United States Trustee, ustpreion12.mn.ecf@usdoj.gov

James & Elizabeth Belfiori
2105 S. Main
Park Rapids, MN 56470

Executed on : January 8, 2014

Signed: /e/ Gene W. Doeling
Gene W. Doeling
3429 Interstate Blvd. S.
Fargo, ND 58102